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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

ROCKET DOG BRANDS, LLC, a  
 Delaware limited liability company,

Plaintiff,

v.

GMI CORPORATION, a New York  
 corporation,

Defendant.

CASE NO. C12-4643 SI

**STIPULATED PROTECTIVE ORDER**

AND RELATED COUNTERCLAIMS

**1. PURPOSES AND LIMITATIONS**

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.

1 The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated  
 2 Protective Order does not entitle them to file confidential information under seal; Civil  
 3 Local Rule 79-5 and General Order 62 set forth the procedures that must be followed and  
 4 the standards that will be applied when a party seeks permission from the court to file  
 5 material under seal.

## 6 **2. DEFINITIONS**

7       2.1 **Challenging Party:** a Party or Non-Party that challenges the designation of  
 8 information or items under this Order.

9       2.2 **"CONFIDENTIAL" Information or Items:** information (regardless of how it  
 10 is generated, stored or maintained) or tangible things that qualify for protection under  
 11 Federal Rule of Civil Procedure 26(c).

12       2.3 **Counsel (without qualifier):** Outside Counsel of Record and House  
 13 Counsel (as well as their support staff).

14       2.4 **Designated House Counsel:** House Counsel who seek access to  
 15 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information in this matter.

16       2.5 **Designating Party:** a Party or Non-Party that designates information or  
 17 items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL".

18       2.6 **Disclosure or Discovery Material:** all items or information, regardless of  
 19 the medium or manner in which it is generated, stored, or maintained (including, among  
 20 other things, testimony, transcripts, and tangible things), that are produced or generated  
 21 in disclosures or responses to discovery in this matter.

22       2.7 **Expert:** a person with specialized knowledge or experience in a matter  
 23 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as  
 24 an expert witness or as a consultant in this action, (2) is not a past or current employee of  
 25 a Party's competitor, and (3) at the time of retention, is not anticipated to become an  
 26 employee of a Party's competitor.

27       2.8 **"HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or**  
 28 **Items:** extremely sensitive "Confidential Information or Items," disclosure of which to

1 another Party or Non-Party would create a substantial risk of serious harm that could not  
2 be avoided by less restrictive means.

3       2.9     **House Counsel:** attorneys who are employees of a party to this action.  
4 House Counsel does not include Outside Counsel of Record or any other outside  
5 counsel.

6       2.10    **Non-Party:** any natural person, partnership, corporation, association, or  
7 other legal entity not named as a Party to this action.

8       2.11    **Outside Counsel of Record:** attorneys who are not employees of a party  
9 to this action but are retained to represent or advise a party to this action and have  
10 appeared in this action on behalf of that party or are affiliated with a law firm which has  
11 appeared on behalf of that party.

12       2.12    **Party:** any party to this action, including all of its officers, directors,  
13 employees, consultants, retained experts, and Outside Counsel of Record (and their  
14 support staffs).

15       2.13    **Producing Party:** a Party or Non-Party that produces Disclosure or  
16 Discovery Material in this action.

17       2.14    **Professional Vendors:** persons or entities that provide litigation support  
18 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
19 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
20 their employees and subcontractors.

21       2.15    **Protected Material:** any Disclosure or Discovery Material that is  
22 designated as "CONFIDENTIAL," or as "HIGHLY CONFIDENTIAL – ATTORNEYS'  
23 EYES ONLY."

24       2.16    **Receiving Party:** a Party that receives Disclosure or Discovery Material  
25 from a Producing Party.

### 26     **3.     SCOPE**

27       The protections conferred by this Stipulation and Order cover not only Protected  
28 Material (as defined above), but also (1) any information copied or extracted from

1 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected  
2 Material; and (3) any testimony, conversations, or presentations by Parties or their  
3 Counsel that might reveal Protected Material. However, the protections conferred by this  
4 Stipulation and Order do not cover the following information: (a) any information that is in  
5 the public domain at the time of disclosure to a Receiving Party or becomes part of the  
6 public domain after its disclosure to a Receiving Party as a result of publication not  
7 involving a violation of this Order, including becoming part of the public record through  
8 trial or otherwise; and (b) any information known to the Receiving Party prior to the  
9 disclosure or obtained by the Receiving Party after the disclosure from a source who  
10 obtained the information lawfully and under no obligation of confidentiality to the  
11 Designating Party. Any use of Protected Material at trial shall be governed by a separate  
12 agreement or order.

#### 13 **4. DURATION**

14 Even after final disposition of this litigation, the confidentiality obligations imposed  
15 by this Order shall remain in effect until a Designating Party agrees otherwise in writing or  
16 a court order otherwise directs. Final disposition shall be deemed to be the later of (1)  
17 dismissal of all claims and defenses in this action, with or without prejudice; and (2) final  
18 judgment herein after the completion and exhaustion of all appeals, rehearings, remands,  
19 trials, or reviews of this action, including the time limits for filing any motions or  
20 applications for extension of time pursuant to applicable law.

#### 21 **5. DESIGNATING PROTECTED MATERIAL**

##### 22 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

23 Each Party or Non-Party that designates information or items for protection under  
24 this Order must take care to limit any such designation to specific material that qualifies  
25 under the appropriate standards. To the extent it is practical to do so, the Designating  
26 Party must designate for protection only those parts of material, documents, items, or oral  
27 or written communications that qualify – so that other portions of the material, documents,  
28 items, or communications for which protection is not warranted are not swept unjustifiably

1 within the ambit of this Order.

2 Mass, indiscriminate, or routinized designations are prohibited. Designations that  
3 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,  
4 to unnecessarily encumber or retard the case development process or to impose  
5 unnecessary expenses and burdens on other parties) expose the Designating Party to  
6 sanctions.

7 If it comes to a Designating Party's attention that information or items that it  
8 designated for protection do not qualify for protection at all or do not qualify for the level  
9 of protection initially asserted, that Designating Party must promptly notify all other  
10 parties that it is withdrawing the mistaken designation.

11 **5.2 Manner and Timing of Designations.**

12 Except as otherwise provided in this Order (see, e.g., second paragraph of section  
13 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that  
14 qualifies for protection under this Order must be clearly so designated before the material  
15 is disclosed or produced.

16 Designation in conformity with this Order requires:

17 (a) for information in documentary form (e.g., paper or electronic  
18 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),  
19 that the Producing Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL  
20 – ATTORNEYS' EYES ONLY" to each page that contains protected material. If only a  
21 portion or portions of the material on a page qualifies for protection, the Producing Party  
22 also must clearly identify the protected portion(s) (e.g., by making appropriate markings  
23 in the margins) and must specify, for each portion, the level of protection being asserted.

24 A Party or Non-Party that makes original documents or materials available for  
25 inspection need not designate them for protection until after the inspecting Party has  
26 indicated which material it would like copied and produced. During the inspection and  
27 before the designation, all of the material made available for inspection shall be deemed  
28 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." After the inspecting Party has

1 identified the documents it wants copied and produced, the Producing Party must  
2 determine which documents, or portions thereof, qualify for protection under this Order.  
3 Then, before producing the specified documents, the Producing Party must affix the  
4 appropriate legend ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
5 EYES ONLY") to each page that contains Protected Material. If only a portion or portions  
6 of the material on a page qualifies for protection, the Producing Party also must clearly  
7 identify the protected portion(s) (e.g., by making appropriate markings in the margins)  
8 and must specify, for each portion, the level of protection being asserted.

9 (b) for testimony given in deposition or in other pretrial or trial proceedings,  
10 that the Designating Party identify on the record all protected testimony and specify the  
11 level of protection being asserted before the close of the deposition, hearing, or other  
12 proceeding. When it is impractical to identify separately each portion of testimony that is  
13 entitled to protection and it appears that substantial portions of the testimony may qualify  
14 for protection, the Designating Party may invoke on the record (before the deposition,  
15 hearing, or other proceeding is concluded) a right to have up to 21 days to identify the  
16 specific portions of the testimony as to which protection is sought and to specify the level  
17 of protection being asserted. Only those portions of the testimony that are appropriately  
18 designated for protection within the 21 days shall be covered by the provisions of this  
19 Stipulated Protective Order. Alternatively, a Designating Party may specify, at the  
20 deposition or up to 21 days afterwards if that period is properly invoked, that the entire  
21 transcript shall be treated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –  
22 ATTORNEYS' EYES ONLY."

23 Parties shall give the other parties notice if they reasonably expect a deposition,  
24 hearing or other proceeding to include Protected Material so that the other parties can  
25 ensure that only authorized individuals who have signed the "Acknowledgment and  
26 Agreement to Be Bound" (Exhibit A) are present at those proceedings. The use of a  
27 document as an exhibit at a deposition shall not in any way affect its designation as  
28 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

1 Transcripts containing Protected Material shall have an obvious legend on the title  
 2 page that the transcript contains Protected Material, and the title page shall be followed  
 3 by a list of all pages (including line numbers as appropriate) that have been designated  
 4 as Protected Material and the level of protection being asserted by the Designating Party.  
 5 The Designating Party shall inform the court reporter of these requirements. Any  
 6 transcript that is prepared before the expiration of a 21-day period for designation shall  
 7 be treated during that period as if it had been designated "HIGHLY CONFIDENTIAL –  
 8 ATTORNEYS' EYES ONLY" in its entirety unless otherwise agreed. After the expiration  
 9 of that period, the transcript shall be treated only as actually designated.

10 (c) for information produced in some form other than documentary and for  
 11 any other tangible items, that the Producing Party affix in a prominent place on the  
 12 exterior of the container or containers in which the information or item is stored the  
 13 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." If  
 14 only a portion or portions of the information or item warrant protection, the Producing  
 15 Party, to the extent practicable, shall identify the protected portion(s) and specify the level  
 16 of protection being asserted.

### 17 5.3 Inadvertent Failures to Designate.

18 If timely corrected, an inadvertent failure to designate qualified information or items  
 19 does not, standing alone, waive the Designating Party's right to secure protection under  
 20 this Order for such material. Upon timely correction of a designation, the Receiving Party  
 21 must make reasonable efforts to assure that the material is treated in accordance with  
 22 the provisions of this Order.

## 23 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

### 24 6.1 Timing of Challenges.

25 Any Party or Non-Party may challenge a designation of confidentiality at any time.  
 26 Unless a prompt challenge to a Designating Party's confidentiality designation is  
 27 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
 28 or a significant disruption or delay of the litigation, a Party does not waive its right to



1 challenge a confidentiality designation by electing not to mount a challenge promptly after  
2 the original designation is disclosed.

3       **6.2 Meet and Confer.**

4       The Challenging Party shall initiate the dispute resolution process by providing  
5 written notice of each designation it is challenging and describing the basis for each  
6 challenge. To avoid ambiguity as to whether a challenge has been made, the written  
7 notice must recite that the challenge to confidentiality is being made in accordance with  
8 this specific paragraph of the Stipulated Protective Order. The parties shall attempt to  
9 resolve each challenge in good faith and must begin the process by conferring directly (in  
10 voice to voice dialogue; other forms of communication are not sufficient) within 14 days of  
11 the date of service of notice. In conferring, the Challenging Party must explain the basis  
12 for its belief that the confidentiality designation was not proper and must give the  
13 Designating Party an opportunity to review the designated material, to reconsider the  
14 circumstances, and, if no change in designation is offered, to explain the basis for the  
15 chosen designation. A Challenging Party may proceed to the next stage of the challenge  
16 process only if it has engaged in this meet and confer process first or establishes that the  
17 Designating Party is unwilling to participate in the meet and confer process in a timely  
18 manner.

19       **6.3 Judicial Intervention.**

20       If the Parties cannot resolve a challenge without court intervention, the  
21 Challenging Party shall file and serve a motion challenging a confidential designation  
22 under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5 and General Order  
23 62, if applicable) within 21 days of the initial notice of challenge or within 14 days of the  
24 parties agreeing that the meet and confer process will not resolve their dispute,  
25 whichever is earlier. Each such motion must be accompanied by a competent  
26 declaration affirming that the movant has complied with the meet and confer  
27 requirements imposed in the preceding paragraph.

28       The burden of persuasion in any such challenge proceeding shall be on the



Designating Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. All parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the court rules on the challenge.

## **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

### **7.1 Basic Principles.**

A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the litigation has been terminated, a Receiving Party must comply with the provisions of Section 13 below.

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

### **7.2 Disclosure of "CONFIDENTIAL" Information or Items.**

Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

(a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the

1 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

2 (d) the court and its personnel;

3 (e) court reporters and their staff, professional jury or trial consultants, and  
4 Professional Vendors to whom disclosure is reasonably necessary for this litigation and  
5 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

6 (f) during their depositions, witnesses in the action to whom disclosure is  
7 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be  
8 Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the  
9 court;<sup>1</sup> and

10 (g) the author or recipient of a document containing the information or a  
11 custodian or other person who otherwise possessed or knew the information.

12 **7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”**  
13 **Information or Items.**

14 Unless otherwise ordered by the court or permitted in writing by the Designating  
15 Party, a Receiving Party may disclose any information or item designated “HIGHLY  
16 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

17 (a) the Receiving Party’s Outside Counsel of Record in this action, as well  
18 as employees of said Outside Counsel of Record to whom it is reasonably necessary to  
19 disclose the information for this litigation and who have signed the “Acknowledgment and  
20 Agreement to Be Bound” that is attached hereto as Exhibit A;

21 (b) Designated House Counsel of the Receiving Party (1) who has no  
22 involvement in competitive decision-making, (2) to whom disclosure is reasonably  
23 necessary for this litigation, (3) who has signed the “Acknowledgment and Agreement to  
24 Be Bound” (Exhibit A), and (4) as to whom the procedures set forth in paragraph

25 \_\_\_\_\_  
26 <sup>1</sup> Pages of transcribed deposition testimony or exhibits to depositions that reveal  
27 Protected Material must be separately bound by the court reporter and may not be  
28 disclosed to anyone except as permitted under this Stipulated Protective Order.

1 7.4(a)(1), below, have been followed;

2 (c) Experts of the Receiving Party (1) to whom disclosure is reasonably  
3 necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to  
4 Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph  
5 7.4(a)(2), below, have been followed;

6 (d) the court and its personnel;

7 (e) court reporters and their staff, professional jury or trial consultants, and  
8 Professional Vendors to whom disclosure is reasonably necessary for this litigation and  
9 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

10 (f) the author or recipient of a document containing the information or a  
11 custodian or other person who otherwise possessed or knew the information;

12 **7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY**  
13 **CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Designated**  
14 **House Counsel or Experts.**

15 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the  
16 Designating Party, a Party that seeks to disclose to Designated House Counsel any  
17 information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’  
18 EYES ONLY” pursuant to paragraph 7.3(b) first must make a written request to the  
19 Designating Party that (1) sets forth the full name of the Designated House Counsel and  
20 the city and state of his or her residence, and (2) describes the Designated House  
21 Counsel’s current and reasonably foreseeable future primary job duties and  
22 responsibilities in sufficient detail to determine if the Designated House Counsel is  
23 involved, or may become involved, in any competitive decision-making.

24 (a)(2) Unless otherwise ordered by the court or agreed to in writing by the  
25 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order)  
26 any information or item that has been designated “HIGHLY CONFIDENTIAL –  
27 ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(c) first must make a written  
28 request to the Designating Party that (1) sets forth the full name of the Expert and the city

1 and state of his or her primary residence, (2) attaches a copy of the Expert's current  
2 resume, (3) identifies the Expert's current employer(s), (4) identifies each person or entity  
3 from whom the Expert has received compensation or funding for work in his or her areas  
4 of expertise or to whom the expert has provided professional services, including in  
5 connection with a litigation, at any time during the preceding five years, and (5) identifies  
6 any litigation (by name and number of the case, filing date, and location of court, if such  
7 information is not available to the Expert, the Expert should provide the nature of the  
8 litigation and the identity of the attorney(s) and client(s) that retained the Expert in the  
9 matter) in connection with which the Expert has offered expert testimony, including  
10 through a declaration, report, or testimony at a deposition or trial, during the preceding  
11 five years.

12 (b) A Party that makes a request and provides the information specified in  
13 the preceding respective paragraphs may disclose the subject Protected Material to the  
14 identified Designated House Counsel or Expert unless, within 14 days of delivering the  
15 request, the Party receives a written objection from the Designating Party. Any such  
16 objection must set forth in detail the grounds on which it is based.

17 (c) A Party that receives a timely written objection must meet and confer  
18 with the Designating Party (through direct voice to voice dialogue) to try to resolve the  
19 matter by agreement within seven days of the written objection. If no agreement is  
20 reached, the Party seeking to make the disclosure to Designated House Counsel or the  
21 Expert may file a motion as provided in Civil Local Rule 7 (and in compliance with Civil  
22 Local Rule 79-5 and General Order 62, if applicable) seeking permission from the court to  
23 do so. Any such motion must describe the circumstances with specificity, set forth in  
24 detail the reasons why the disclosure to Designated House Counsel or the Expert is  
25 reasonably necessary, assess the risk of harm that the disclosure would entail, and  
26 suggest any additional means that could be used to reduce that risk. In addition, any  
27 such motion must be accompanied by a competent declaration describing the parties'  
28 efforts to resolve the matter by agreement (i.e., the extent and the content of the meet

1 and confer discussions) and setting forth the reasons advanced by the Designating Party  
2 for its refusal to approve the disclosure.

3 In any such proceeding, the Party opposing disclosure to Designated House  
4 Counsel or the Expert shall bear the burden of proving that the risk of harm that the  
5 disclosure would entail (under the safeguards proposed) outweighs the Receiving Party's  
6 need to disclose the Protected Material to its Designated House Counsel or Expert.

7 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
8 **PRODUCED IN OTHER LITIGATION**

9 If a Party is served with a subpoena or a court order issued in other litigation that  
10 compels disclosure of any information or items designated in this action as  
11 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party  
12 must:

13 (a) promptly notify in writing the Designating Party. Such notification shall  
14 include a copy of the subpoena or court order;

15 (b) promptly notify in writing the party who caused the subpoena or order to  
16 issue in the other litigation that some or all of the material covered by the subpoena or  
17 order is subject to this Stipulated Protective Order. Such notification shall include a copy  
18 of this Stipulated Protective Order; and

19 (c) cooperate with respect to all reasonable procedures sought to be  
20 pursued by the Designating Party whose Protected Material may be affected.

21 If the Designating Party timely seeks a protective order, the Party served with the  
22 subpoena or court order shall not produce any information designated in this action as  
23 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a  
24 determination by the court from which the subpoena or order issued, unless the Party has  
25 obtained the Designating Party's permission. The Designating Party shall bear the  
26 burden and expense of seeking protection in that court of its confidential material – and  
27 nothing in these provisions should be construed as authorizing or encouraging a  
28 Receiving Party in this action to disobey a lawful directive from another court.

1 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**  
2 **PRODUCED IN THIS LITIGATION**

3 (a) The terms of this Order are applicable to information produced by a  
4 Non-Party in this action and designated as "CONFIDENTIAL" or "HIGHLY  
5 CONFIDENTIAL – ATTORNEYS' EYES ONLY." Such information produced by Non-  
6 Parties in connection with this litigation is protected by the remedies and relief provided  
7 by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party  
8 from seeking additional protections.

9 (b) In the event that a Party is required, by a valid discovery request, to  
10 produce a Non-Party's confidential information in its possession, and the Party is subject  
11 to an agreement with the Non-Party not to produce the Non-Party's confidential  
12 information, then the Party shall:

13 1. promptly notify in writing the Requesting Party and the Non-Party  
14 that some or all of the information requested is subject to a confidentiality agreement with  
15 a Non-Party;

16 2. promptly provide the Non-Party with a copy of the Stipulated  
17 Protective Order in this litigation, the relevant discovery request(s), and a reasonably  
18 specific description of the information requested; and

19 3. make the information requested available for inspection by the Non-  
20 Party.

21 (c) If the Non-Party fails to object or seek a protective order from this  
22 court within 14 days of receiving the notice and accompanying information, the Receiving  
23 Party may produce the Non-Party's confidential information responsive to the discovery  
24 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not  
25 produce any information in its possession or control that is subject to the confidentiality  
26 agreement with the Non-Party before a determination by the court. Absent a court order  
27 to the contrary, the Non-Party shall bear the burden and expense of seeking protection in  
28 this court of its Protected Material.

**10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures; (b) use its best efforts to retrieve all unauthorized copies of the Protected Material; (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order; and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

**11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL**

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

**12. MISCELLANEOUS**

**12.1 Right to Further Relief.**

Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

**12.2 Right to Assert Other Objections.**

By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any



1 right to object on any ground to use in evidence of any of the material covered by this  
2 Protective Order.

### 3 12.3 Filing Protected Material.

4 Without written permission from the Designating Party or a court order secured  
5 after appropriate notice to all interested persons, a Party may not file in the public record  
6 in this action any Protected Material. A Party that seeks to file under seal any Protected  
7 Material must comply with Civil Local Rule 79-5 and General Order 62. Protected  
8 Material may only be filed under seal pursuant to a court order authorizing the sealing of  
9 the specific Protected Material at issue. Pursuant to Civil Local Rule 79-5 and General  
10 Order 62, a sealing order will issue only upon a request establishing that the Protected  
11 Material at issue is privileged, protectable as a trade secret, or otherwise entitled to  
12 protection under the law. If a Receiving Party's request to file Protected Material under  
13 seal pursuant to Civil Local Rule 79-5(d) and General Order 62 is denied by the court,  
14 then the Receiving Party may file the Protected Material in the public record pursuant to  
15 Civil Local Rule 79-5(e) unless otherwise instructed by the court.

## 16 13. FINAL DISPOSITION

17 Within 60 days after the final disposition of this action, as defined in Section 4,  
18 each Receiving Party must return all Protected Material to the Producing Party or destroy  
19 such material. As used in this subdivision, "all Protected Material" includes all copies,  
20 abstracts, compilations, summaries, and any other format reproducing or capturing any of  
21 the Protected Material. Whether the Protected Material is returned or destroyed, the  
22 Receiving Party must submit a written certification to the Producing Party (and, if not the  
23 same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies  
24 (by category, where appropriate) all the Protected Material that was returned or  
25 destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts,  
26 compilations, summaries or any other format reproducing or capturing any of the  
27 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an  
28 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,

1 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney  
2 work product, and consultant and expert work product, even if such materials contain  
3 Protected Material. Any such archival copies that contain or constitute Protected Material  
4 remain subject to this Protective Order as set forth in Section 4.

5  
6 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

7  
8 DATED: August 1, 2013

HANSON BRIDGETT LLP

9  
10 By: /s/ Christopher S. Walters

11 GARNER K. WENG  
12 LAWRENCE M. CIRELLI  
13 CHRISTOPHER S. WALTERS  
Attorneys for Plaintiff  
ROCKET DOG BRANDS, LLC

14 DATED: August 1, 2013

GREENBERG TRAURIG, LLP

15  
16  
17 By: /s/ Sarah E. Barrows

18 SARAH E. BARROWS  
Attorneys for Defendant  
19 GMI USA CORPORATION

20  
21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

22 DATED: 8/5/13

  
23 The Honorable Susan Illston  
24 United States District Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
 \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I  
 have read in its entirety and understand the Stipulated Protective Order that was issued  
 by the United States District Court for the Northern District of California on  
 \_\_\_\_\_ [date] in the case of Rocket Dog Brands, LLC v. GMI Corporation,  
 U.S. District Court for the Northern District of California, Case No. C12-4643 SI agree to  
 comply with and to be bound by all the terms of the Stipulated Protective Order and I  
 understand and acknowledge that failure to so comply could expose me to sanctions and  
 punishment in the nature of contempt. I solemnly promise that I will not disclose in any  
 manner any information or item that is subject to this Stipulated Protective Order to any  
 person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for  
 the Northern District of California for the purpose of enforcing the terms of this Stipulated  
 Protective Order, even if such enforcement proceedings occur after termination of this  
 action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_  
 [printed name]

Signature: \_\_\_\_\_  
 [signature]

**ATTESTATION CLAUSE**

I, Christopher S. Walters, am the ECF User whose ID and password are being used to file this STIPULATED PROTECTIVE ORDER. In compliance with General Order 45, X.B., I hereby attest that Sarah E. Barrows, attorney at Greenberg Traurig, LLC, concurred in this filing.

Dated: August 1, 2013

HANSON BRIDGETT LLP

By: /s/ Christopher S. Walters  
Christopher S. Walters